

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 596 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

PARVATIBEN WD/O ISHWARLAL GIDUMAL ASNANI

Versus

STATE OF GUJARAT

Appearance:

MR RR TRIVEDI for Petitioner

MR HL JANI for Respondent No. 1

None present for other Respondents

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 06/03/97

ORAL JUDGMENT

The petitioner, Smt. Parvatibai has expired during the pendency of this Special Civil Application and her legal heirs and representatives, petitioners No.1/1 and 1/2 were ordered to be brought on record by accepting the Civil Application No.2490 of 1997.

2. In the Special Civil Application, the petitioner,

since deceased, prayed for directions to the respondent to pay the amount of all arrears of pension amount and the increases granted in pension amount. It is a case of grant of family pension. In the reply to Special Civil Application, the respondents have given out that the petitioner, widow of Ishwarlal Gidumal, who was working as Police Constable in Baroda District and expired on 9th July 1960, was granted family pension vide sanction order No.PAI/OTR/MP/3/60-61/2270 dated 23rd January 1961. The family pension was being paid to the petitioner, since deceased, by sub-treasury Mhow, Indore. It has been admitted that the family pension was not paid to the petitioner, since deceased, after 3rd August 1967 by the sub-treasury, Mhow, Indore, and the respondent No.1 stated that they are not in any manner in default. While allowing the Civil Application No.2434 of 1991, this Court, on 8.1.92, has made the following order:

"The Respondent-Authorities are directed to pay to the petitioner an amount of Rs.375/- (Rs.Three hundred seventy five only) per month till further. The Civil Application disposed of."

3. The learned counsel for the petitioner admits that in pursuance of the order of this Court aforesaid, the petitioner since deceased, was getting family pension, but the dispute remains only of the period from 3rd August 1967 till the date from which the pension was again started to be paid to the petitioner, since deceased. So no reason whatsoever has been given out for non payment of pension to the petitioner from 3rd August 1967. The Treasury Officer, Chitodgard, Rajasthan, has also been impleaded as party to the petition. But neither respondent No.4, nor respondent No.5, has filed any reply to the Special Civil Application and as such, nothing has been stated why the amount of pension has not been paid to the deceased petitioner for the aforesaid period. It is also not the case that the petitioner, since deceased, is not entitled for family pension after 10 years from the date of sanction of family pension. Smt. Parvatibai, the petitioner has already expired on 21st July 1994, and as such, the entitlement of family pension could have been up to 21st July 1994 only, and therefore there is no question of giving of any family pension to legal heirs of deceased petitioner after that date.

4. In the result, this Special Civil Application succeeds and the respondents No.3, 4 and 5 are directed to pay to the petitioners, the arrears of family pension payable to the deceased petitioner, Smt. Parvatibai,

widow of Ishwarlal Gidumal Asnani, for the period from 3rd August 1967 till the date from which the pension was restarted to be given to her under the order of this Court dated 8.1.92. This amount has to be paid to the newly added petitioners in equal share within a period of three months from the date of receipt of writ of this order. However, it is made clear that in case the arrears of this amount has already been paid to late Smt. Parvatibai or any of her legal heirs, the respondents No.3, 4 and 5 are not required to make payment of said amount. Rule is made absolute in aforesaid terms with no order as to costs.

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